

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 102, "Procedures for Charging and Investigating Incidents of Abuse of Students by School Employees," Iowa Administrative Code.

The amendment conforms to 2011 Iowa Acts, House File 645, section 95, requiring certain duties of the board of directors of a school district and the authorities in charge of an accredited nonpublic school when an employee is under investigation for an allegation of abuse under this chapter and when a finding is made that an employee's conduct constitutes a crime.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the October 5, 2011, Iowa Administrative Bulletin as **ARC 9794B**. Public comments were allowed until 4:30 p.m. on October 25, 2011. A public hearing was held on that date at which no person appeared. One written comment was received that was representative of several oral comments expressed at the annual training of Level One investigators. School administrators expressed concern about the waste of educational time and resources involved in placing on leave an employee before the employee is determined to have abused a student. The Department acknowledges this concern, but the underlying legislation is clear that schools "shall place on administrative leave a school employee who is the subject of an investigation of an alleged incident of abuse of a student conducted in accordance with" this chapter of rules. (At its regular meeting on November 1, 2011, the Administrative Rules Review Committee unanimously made a general referral of this rule making to the General Assembly.)

This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 280.17 as amended by 2011 Iowa Acts, House File 645, section 95.

This amendment shall become effective January 18, 2012.

The following amendment is adopted.

Adopt the following new subrules 102.5(5) and 102.5(6):

**102.5(5)** Place on administrative leave a school employee who is the subject of an investigation under this chapter of an alleged incident of physical or sexual abuse, once the Level One investigator has determined that the written complaint is investigable under rule 281—102.3(280).

**102.5(6)** Report to the board of educational examiners the results of an investigation that finds that the school employee's conduct constitutes a crime.

[Filed 11/16/11, effective 1/18/12]

[Published 12/14/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.